

EXHIBIT A

1 UNITED STATES BANKRUPTCY COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 Case No. 08-99000-smb
4 - - - - - x
5 In the Matter of:
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7 ADMINISTRATIVE CASE RE: 08-01789 (SECURITIES INVEST-
8 ADVERSARY PROCEEDING),
9
10 Debtor.
11 - - - - - x
12
13 Adv. Case No. 10-04995-smb
14 - - - - - x
15 IRVING H. PICARD, TRUSTEE FOR THE LIQUIDATION OF BERNARD L.
16 MADOFF INVESTMENT SECURITIES LLC,
17 Plaintiff,
18 v.
19 TRUST u/art FOURTH o/w/o ISRAEL WILENITZ,
20 Defendants.
21 - - - - - x
22
23
24
25

1 Adv. Case No. 10-05184-smb

2 - - - - - x

3 IRVING H. PICARD, TRUSTEE FOR THE LIQUIDATION OF BERNARD L.

4 MADOFF INVESTMENT SECURITIES LLC,

5 Plaintiff,

6 v.

7 LAURA ANN SMITH REVOCABLE LIVING TRUST et al,

8 Defendants.

9 - - - - - x

10

11 Adv. Case No. 10-04352-smb

12 - - - - - x

13 IRVING H. PICARD, TRUSTEE FOR THE LIQUIDATION OF BERNARD L.

14 MADOFF INVESTMENT SECURITIES LLC,

15 Plaintiff,

16 v.

17 RAR ENTREPRENEURIAL FUND. LTD. et al.,

18 Defendants.

19 - - - - - x

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1 U.S. Bankruptcy Court
2 One Bowling Green
3 New York, NY 10004
4

5 May 17, 2016
6 10:51 AM
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9 B E F O R E :

10 HON STUART M. BERNSTEIN

11 U.S. BANKRUPTCY JUDGE
12
13
14

15 Hearing re: 10-04995-smb, 10-05184-smb, 10-04352-smb The
16 Trustee's Request For Leave To File A Motion For a
17 Protective Order in Wilentiz.
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25 Transcribed by: Sonya Ledanski Hyde

1 half a million.

2 THE COURT: Mm hmm.

3 MS. CHAITMAN: You could very reasonably determine
4 that the Ponzi scheme presumption cannot apply to that year.

5 THE COURT: Okay. I'm not arguing with you but I
6 thought that whatever records they had had been turned over.

7 MS. CHAITMAN: No, they have internal records that
8 they have not turned over. They have monthly reports as to
9 what the trading volume was in the market making unit, in
10 the investment advisory unit, and in the --

11 THE COURT: Well, the investment advisory but
12 there's no trader.

13 MS. CHAITMAN: Excuse me, I mean the market making
14 and the proprietary trading.

15 MR. JACOBS: We have turned over everything that
16 we have. We scoured the ends of the earth, we have been in
17 discussion with DTC to try to find out if there are more
18 documents. Ms. Chaitman subpoenaed DTC. She obviously has
19 subpoena power. She can go out into the world and conduct
20 third-party discovery...

21 THE COURT: Okay, but she's entitled also to ask
22 you what documents you have.

23 MR. JACOBS: Your Honor, we didn't make 4 million
24 records available because we're trying to hide anything. We
25 have made everything we have available within the parameters

1 BLMIS bought 100 shares of IBM and 50 shares show up on
2 Wilenitz.

3 MR. JACOBS: Right.

4 THE COURT: Who's to say he didn't actually own
5 that stock?

6 MR. JACOBS: I would love to be able to --

7 THE COURT: Which I guess would be relevant to his
8 net equity claim or his claim in the SIRA case.

9 MR. JACOBS: I wish I could give you a
10 satisfactory answer but in the time that we have today, I
11 can't replicate the report of our expert, which, in
12 painstaking detail goes through all of the reasons why we
13 believe there was never a security traded in connection with
14 the fraudulent Ponzi scheme being operated and the IA
15 business.

16 THE COURT: So, how does she test that conclusion?

17 MR. JACOBS: She tests that conclusion the same
18 way our expert does, by examining the underlying records.
19 All of those records again have been made available to Ms.
20 Chaitman. They're in the data room. Those other records
21 are expert reports.

22 THE COURT: Maybe that's the answer. If there are
23 records -- because they do have the DTC records, at least
24 from the period when Wilenitz was investing. If the records
25 show that BLMIS actually owned something, and the same stock

1 shows up in Wilenitz's account statement, you can make the
2 argument that he actually owned that stock. But you can do
3 that (indiscernible) and the information has been made
4 available to you.

5 And the sense I'm getting -- and I understand that
6 it's a lot of work -- is you want the Trustee to do this for
7 you, but you're going to have to do this yourself if this
8 stuff is available.

9 MS. CHAITMAN: You know, Judge, with 4 million
10 pages of documents, the least the Trustee could do is
11 specify the specific Bates Numbers. Because I don't want to
12 be in a position where we go to trial... I mean, for all I
13 know, the data room is updated constantly and new documents
14 are added. How am I going to prove at trial that certain
15 documents were not made available to me? I mean, it's
16 impossible. Why can't the Trustee be bound to tell me these
17 are the documents responsive to this request?

18 THE COURT: But that doesn't solve your problem...
19 Well, if the Trustee has additional documents, he's got to
20 supplement the disclosure or the production, which he does
21 by adding them to the data room, and maybe you have a
22 continuing duty to check the data room.

23 But part of the problem is you've thrown such a
24 broad net over what you're looking for, instead of the
25 specific documents relevant -- that I think seem to be